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SEP 07 2005

OFFICE OF PETITIONS

In re Application of :
Paul G. Alchas :
Application No. 09/825,395 :
Filed: April 3, 2001 :
Attorney Docket No. P-4498C1 :
: DECISION ON PETITIONS
: 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR §1.137(b), filed July 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned, by operation of law, for failure to timely reply within the three month shortened statutory period set in the non-final Office Action mailed December 15, 2004. No timely filed extensions of time were obtained pursuant to the provisions of 37 CFR §1.136(a). The date of abandonment of this application is March 16, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR §1.137(b) in that (1) the reply (amendment); (2) the petition fee of \$1500.00 (large entity) and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Non-Final office action mailed December 15, 2005 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$ 1,020.00 extension of time submitted with the petition on July 7, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.

This matter is being referred to Technology Center Art Unit 3763 for appropriate action on the concurrently filed response.

Frances Neals for

Brian Hearn
Petitions Examiner
Office of Petitions